

BRUCE D. GOLDSTEIN, State Bar No. 135970
County Counsel
ANNE L. KECK, State Bar No. 136315
Deputy County Counsel
Office of the Sonoma County Counsel
575 Administration Drive, Room 105A
Santa Rosa, CA 95403-2815
Telephone: (707) 565-2421
Facsimile: (707) 565-2624
E-mail: Anne.Keck@sonoma-county.org

Attorneys for Defendant
Sonoma County Fair and Exposition, Inc.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

DAREN HEATHERLY, IRMA RAMIREZ, Case No. C-13-04327 KAW
and HARRISON BENSON KINNEY, JR.,

Plaintiffs,

v.

SONOMA COUNTY FAIR AND
EXPOSITION, INC., and COUNTY OF
SONOMA,

Defendants.

**JOINT STIPULATION TO (1) EXTEND
TIME IN WHICH TO FILE ANSWERS TO
COMPLAINT, AND (2) EXTEND TIME IN
WHICH TO HOLD JOINT INSPECTION
OF PREMISES, PER GENERAL ORDER
56; ~~PROPOSED~~ ORDER**

TO THE HON. KANDIS A. WESTMORE, UNITED STATES MAGISTRATE JUDGE:

This Joint Stipulation to (1) Extend Time in Which to File Answers to Complaint, and (2) Extend Time in Which to Hold Joint Inspection of Premises, Per General Order 56, is submitted by all named parties in this action, including: Plaintiffs Daren Heatherly, Irma Ramirez, and Harrison Benson Kinney, Jr. (collectively, "Plaintiffs"), Defendant the Sonoma County Fair and Exposition, Inc. ("Fair"), and Defendant the County of Sonoma ("County").

The parties to this Stipulation request the Court to enter an order as follows: (1) approving an extension of time in which Defendants may file their answers to the complaint through and including December 17, 2013; and (2) amending the "Scheduling Order for Cases Asserting Denial of Right or

1 Access Under Americans with Disabilities Act Title II & III (42 U.S.C. §§ 12131 – 89),” entered
 2 herein on September 18, 2013, to extend the time for the joint inspection of premises through and
 3 including January 31, 2014. The parties submit that good cause supports their requests, as set forth
 4 below.

5 **RECITALS**

6 A. Plaintiffs filed their Complaint for Injunctive Relief and Damages herein on
 7 September 18, 2013. The complaint alleges four causes of action, as follows: (1) denial of access by
 8 a public accommodation in violation of the Americans with Disabilities Act of 1990, 42 U.S.C. §
 9 12101, *et seq.*; (2) denial of full and equal access in violation of California Civil Code §§ 54, 54.1
 10 and 54.3; (3) denial of accessible sanitary facilities in violation of California Health & Safety Code §
 11 19955, *et seq.*; and (4) denial of access to full and equal accommodations, advantages, facilities,
 12 privileges, and/or services in violation of California Civil Code § 51, *et seq.*

13 B. As this case asserts denial of a right of access protected by the Americans with
 14 Disabilities Act, Northern District General Order No. 56 applies herein. Consistent with General
 15 Order No. 56, on September 18, 2013, this Court issued its “Scheduling Order for Cases Asserting
 16 Denial of Right or Access Under Americans with Disabilities Act Title II & III (42 U.S.C. §§ 12131
 17 – 89) (Dkt. No. 3, hereinafter, the “Scheduling Order”). Under the Scheduling Order, the parties are
 18 required to hold their joint inspection of the premises on or before January 2, 2014.

19 C. The complaint was served on the Sonoma County Board of Supervisors on October
 20 11, 2013. Plaintiffs previously and informally agreed to an extension of time to respond to the
 21 complaint through November 22, 2013.

22 D. Defendants the Fair and the County intended to jointly engage Gene Elliot of the law
 23 firm of Bertrand, Fox & Elliot to represent them in this matter. However, they have since identified
 24 a potential conflict in doing so, which matter will be presented to the Sonoma County Board of
 25 Supervisors in closed session on December 10, 2013. It is likely that the conflict issues between the
 26 Defendants will be resolved by the Board at that meeting, which would permit Mr. Elliot to
 27 represent both Defendants in this action and file one answer on their behalf. Without such action,

1 the Defendants will be required to proceed in this case with separate counsel and answer the
 2 complaint separately, which would increase the cost and decrease efficiencies proceeding forward.

3 E. Plaintiffs have graciously agreed to provide Defendants with additional time in which
 4 to resolve the potential conflict, and have provided Defendants through and including December 17,
 5 2013, in which to file their answers to the complaint. This extension of time will not affect any date
 6 set by the Court or the Federal Rules.

7 F. In light of this extension of time, Plaintiffs have requested and Defendants have
 8 agreed to seek a Court order extending the time in which they are required to conduct their joint
 9 inspection of the premises, from the current date set in the Scheduling Order of January 2, 2014, to
 10 January 31, 2014. This extension of time will allow the parties additional time in which to address
 11 the procedural issues in this case as well as to inspect the premises, as inspection dates may be
 12 limited based on inclement weather and/or scheduling issues.

13 WHEREFORE, the parties to this stipulation hereby agree and request entry of an order as
 14 follows:

15 STIPULATION

16 1. The time in which Defendants may file their answers to the complaint in this case is
 17 requested to be extended through and including December 17, 2013.

18 2. The date set in the Scheduling Order by which the parties are to complete their joint
 19 inspection of the premises is requested to be extended through and including January 31, 2014.

20 3. Nothing in this Stipulation and request for order is intended to modify the other
 21 matters addressed in any Court order unless expressly identified herein, nor does it preclude the
 22 parties from seeking additional relief from this Court, to amend this stipulation and order or
 23 otherwise.

24 Respectfully Submitted,

25 Dated: November 26, 2013

Bruce D. Goldstein, Sonoma County Counsel

26 By: /s/ Anne L. Keck

Anne L. Keck, Deputy County Counsel
 Attorneys for Defendant Sonoma County Fair
 and Exposition, Inc.

1 Dated: November 26, 2013

Bertrand, Fox & Elliot

2 By: /s/ Gene Elliot
Gene Elliot

3 Attorneys for Defendant the County of Sonoma

4 Dated: November 26, 2013

Thomas E. Frankovitch, a Professional Law Corp.

5 By: /s/ Thomas E. Frankovich
6 Thomas E. Frankovitch
Attorney for Plaintiffs

ELECTRONIC CASE FILING ATTESTATION

I, Anne L. Keck, the ECF User whose identification and password are being used to file the foregoing document, hereby attest pursuant to Civil Local Rule 5-1(i) that the concurrence in the filing of this document has been obtained from its signatories.

Dated: November 26, 2013

/s/ Anne L. Keck

Anne L. Keck
Attorney for Defendant Sonoma County
Fair and Exposition, Inc.

~~[PROPOSED]~~ ORDER

Pursuant to and in accordance with the foregoing Stipulation, and with good cause appearing,
IT IS HEREBY ORDERED as follows:

1. The time in which Defendants may file their answers to the complaint in this case is extended through and including December 17, 2013.

2. The Scheduling Order entered on September 18, 2013 (Dkt. No. 3) is hereby amended to provide that the parties are required complete their joint inspection of the premises on or before January 31, 2014.

IT IS SO ORDERED.

Date: 11/27/13


HONORABLE KANDIS A. WESTMORE
United States Magistrate Judge